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From: General Secretariat of the Council

On: 20 September 2019

To: Delegations

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Subject: Council Implementing Decision setting out a recommendation on addressing the deficiencies identified in the 2019 evaluation of **Czechia** on the application of the Schengen *acquis* in the field of the **common visa policy**

Delegations will find in the annex the Council Implementing Decision setting out a Recommendation on addressing the deficiencies identified in the 2019 evaluation of Czechia on the application of the Schengen *acquis* in the field of the common visa policy, adopted by the Council at its meeting held on 20 September 2019.

In line with Article 15(3) of Council Regulation (EU) No 1053/2013 of 7 October 2013, this Recommendation will be forwarded to the European Parliament and national Parliaments.

Council Implementing Decision setting out a

RECOMMENDATION

on addressing the deficiencies identified in the 2019 evaluation of Czechia on the application of the Schengen acquis in the field of the common visa policy

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union,

Having regard to Council Regulation (EU) No 1053/2013 of 7 October 2013 establishing an evaluation and monitoring mechanism to verify the application of the Schengen *acquis* and repealing the Decision of the Executive Committee of 16 September 1998 setting up a Standing Committee on the evaluation and implementation of Schengen¹, and in particular Article 15 thereof,

Having regard to the proposal from the European Commission,

Whereas:

- (1) The purpose of this Decision is to recommend to Czechia remedial actions to address the deficiencies identified during the Schengen evaluation in the field of the common visa policy carried out in 2019. Following the evaluation, a report covering the findings and assessments, and listing best practices and deficiencies identified during the evaluation, was adopted by Commission Implementing Decision C(2019) 6303.
- (2) In the light of the importance of the correct implementation of provisions linked to the decision-making process, the Visa Information System (VIS), the monitoring of external service providers and data protection, Czechia should give priority to implementing recommendations 3, 10, 11, 15 to 17, 21, 28, 30 to 32, 48, 57 and 58 in this Decision.

¹ OJ L 295, 6.11.2013, p. 27.

- (3) This Decision should be transmitted to the European Parliament and the parliaments of the Member States. Within three months of its adoption, Czechia should, pursuant to Article 16(1) of Regulation (EU) No 1053/2013, establish an action plan addressing all recommendations to remedy any deficiencies identified in the evaluation report and submit that action plan to the Commission and the Council,

RECOMMENDS:

that Czechia should:

General

1. ensure that the regular opening hours during which the external service providers receive applications, and the service fee match those established in the legal instruments, or amend the legal instruments accordingly;
2. ensure that the external service providers review their workflow for data extraction, ideally implementing a one-click end-to-end operation for generating CDs or an alternative method for transmitting electronic data to the Czech authorities;
3. ensure that the external service providers automatically delete the application data immediately after they have been transmitted, retaining only the data specified in point A(d) of Annex X to the Visa Code¹;
4. improve the regular training programme for locally employed staff;
5. ensure that applicants who have been refused a visa are fully informed about their right to appeal in compliance with Article 47 of the Charter of Fundamental Rights of the European Union (right to an effective remedy);

¹ Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.9.2009, p. 1).

VIS/IT system

6. consider taking advantage of the extended functionalities of the passport readers and train its staff in their use;
7. consider installing larger screens at the visa workstations, in order to facilitate the work of staff and limit the risk of human error;
8. implement an automatic timeout for the IT system's user session, in order to prevent unauthorised access;
9. review the workflow for importing the datasets provided by the external service provider to its IT system, in particular the use of the additional validation tool for improving data quality;
10. modify its IT system so that the whole set of VIS data can be retrieved along with the national record;
11. ensure that the national database and the VIS are synchronised with minimal delay, bearing in mind that the agreed technical target for consular operations is a maximum of 30 minutes;
12. consider revising the IT system so that it automatically generates a completed refusal, annulment or revocation form;
13. implement a mail filter for VISMail messages, so that each consular post has access only to its own exchanges;
14. ensure that end users are aware of the user manual on its IT system and can easily refer to it, either on paper or online;
15. ensure that the occupation list used by the external service provider is aligned with the VIS list, so that correct information on the applicant's occupation is entered in the VIS;

16. update the process of exporting data from the external service provider in order to ensure that all the address-related fields are extracted;
17. modify its IT system to:
 - (a) provide a free text field for specifying the occupation where it is set as 'other';
 - (b) provide the end user with more detailed information on previous applications and their linking status, thereby facilitating the linking process;
 - (c) display VIS data only in a secured application environment;
 - (d) allow the consular authorities to select multiple reasons for refusal;
 - (e) allow the relevant visa authorities to delete visa applications and decisions, and group and unlink applications, in both the national and the VIS databases;
 - (f) allow the relevant visa authorities to annul or revoke any visa in the VIS;
18. consider developing a new national visa system or carrying out a comprehensive overhaul of the current system to align it with the workflow provided for in the Visa Code and the VIS Regulation¹ and to make it more user-friendly;

Embassy in Abu Dhabi

19. ensure that the same information is displayed at both locations of the external service provider, including checklists of required supporting documents and information on the privileged treatment of family members of Union/EEA/Swiss citizens;
20. instruct the external service provider to inform applicants that the SMS service is optional and subject to an extra fee, and that free online tracking is available;

¹ Regulation (EC) No 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) (OJ L 218 13.8.2008, p. 60).

21. review the workflow for transferring data from the external service provider to the embassy and:
 - a) reduce redundant steps, such as the creation of additional CDs;
 - b) ensure that only embassy staff decrypt the data stored on the CDs;
 - c) ensure that the external service provider complies with basic security requirements for the encryption passwords, bearing in mind the sensitivity of the personal data being exchanged;
 - d) abolish the practice of returning the original CDs with applicants' personal data to the external service provider;
22. instruct the external service provider to review the technical configuration of its workstation at the embassy in order to improve the efficiency of the process;
23. ensure that the information provided on the embassy's website is correct; reconsider the structure of the content in order to avoid discrepancies, especially with regard to the harmonised list of supporting documents, and to make the website easier to navigate;
24. consider upgrading the security measures at the embassy premises;
25. improve the storage management of keys and consider, for instance, an electronic system to control access to all keys for the premises;
26. ensure that the speaker and microphone at the visa counter work properly;
27. ensure that consular staff are aware of reduced visa fees under visa facilitation agreements and that these fees are applied for all qualifying applicants;

28. systematically verify the authenticity of travel documents, or focus on risk cases and nationalities where the individuals' travel documents are not well known to the embassy; make use of existing resources (for example, the embassy's document reader) and databases (for example, PRADO) for that purpose;
29. ensure that knowledge of migratory risk and fraudulent practices is summarised in a written document regularly updated by the consulate, so that new or replacement staff can quickly familiarise themselves with the main challenges for issuing visas in the host country;
30. ensure that the embassy develops a more consistent approach to assessing applications and clear criteria for taking decisions (both on whether a visa should be issued or refused and on the period of validity of issued visas), records those criteria in a written document and organises regular team meetings to share experience and knowledge, and discuss particular cases;
31. ensure that sufficient human resources are dedicated to the examination of applications and decision-making, and that decisions on difficult cases are systematically taken by the consul or more experienced/qualified visa officers;
32. investigate more thoroughly the real purpose of travel in cases where the claimed purpose seems doubtful, including by gathering the necessary information;
33. avoid refusing applications for the sole reason that the flight reservation by a travel agency has expired and can therefore not be found online;
34. avoid refusing applications for the sole reason that the decision is being taken after or close to the intended date of travel, without asking applicants whether they want to postpone their trip;

35. enhance the training programme for expatriate staff, inter alia to improve their ability to apply the provisions of the Visa Code to local circumstances and individual cases;
36. ensure that the consulate applies methodically the central authorities' instructions on increasing the length of validity of visas issued for applicants travelling regularly ('cascade' approach), while allowing for the individual assessment of files and possible harmonisation in local Schengen cooperation;
37. record the outcome of the examination of applications and further investigations and the reasons leading to a decision, ideally in the IT system; consider adapting the comment field for that purpose, if necessary, in a future overhaul of the IT system;
38. in the event of backlog in processing visa applications, introduce a system of sorting them in order of priority (for example, travel purpose, travel date, cases not requiring prior consultation); where possible, avoid deciding on applications after or very close to the intended travel date;
39. ensure that in cases of prior consultation, the consultation period is used to examine the applications, with a view to avoiding unnecessary delays;
40. consider involving local staff more in the visa procedure (for example, in the initial analysis of supporting documents, carrying out interviews or printing visa stickers), in order to free up time for expatriate visa officers to process applications faster and conduct further investigations, where needed;
41. consider establishing adequate storage facilities for archiving applications;
42. limit the number of visas stickers that are taken out of the safe; ensure that the embassy has a clear daily overview of printed stickers, for example by compiling a list of control stickers;

43. ensure that all consular staff are aware of the distinction between the annulment and the revocation of visas;
44. ensure that, where a visa is revoked, the applicant is always notified of the reasons by means of the standard form;
45. train and instruct local staff to systematically send verified applications to the VIS;
46. ensure that the external service provider informs the public about the languages in which the application form can be completed and makes the form available in Czech and Arabic;
47. ensure that the external service provider uses checklists that correspond fully to the harmonised list of supporting documents applicable to the United Arab Emirates;
48. ensure that visa applications are systematically linked to previous applications by the same person;

Consulate in Chengdu

49. ensure that the external service provider provides information on the languages in which the application form can be completed and that the information on appeals is updated;
50. instruct the external service provider to display the checklists of required supporting documents more clearly and complete the information on visa fee reductions and waivers;
51. consider instructing the external service provider to allow all applicants, at least during peak season, to book an appointment to lodge their application, in addition to the current walk-in system;
52. instruct the external service provider to ensure sufficient seating for applicants, especially during peak season;

53. instruct the external service provider to review the hard- and software configuration of its IT system in order to improve its performance;
54. ensure that the consulate's website provides information on the languages in which the application form can be completed and that a list of accredited travel agencies (under the agreement on 'Approved Destination Status', ADS) is published, possibly in cooperation with other Member States in local Schengen cooperation;
55. ensure that local staff are aware of visa fee waivers under the Visa Code and reduced visa fees for certain nationals under visa facilitation agreements;
56. examine all, possibly relevant, supporting documents that the applicant wishes to submit and keep them in the file for the archive;
57. extend VISMail access to all visa decision-makers working in a given consulate;
58. instruct the external service provider to encrypt fully the data that is transmitted to the Czech authorities;
59. ensure that the consulate conducts the return control for ADS groups, if deemed necessary by local Schengen cooperation, and that the external service provider is not entrusted with tasks not permitted by the Visa Code;
60. take measures to prevent the incorrect stamping of invalidated stickers already affixed to the travel document.

Done at Brussels,

For the Council
The President